

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Patrick Nilsen and John Nesse, as Trustees
of the Carpenters and Joiners Welfare
Fund, and each of their successors,

Civ. No. 23-3113 (PAM/DJF)

Plaintiffs,

v.

MEMORANDUM AND ORDER

Axiom Construction Group, LLC,

Defendant.

This matter is before the Court on Plaintiffs' Motion for an order of default and an injunction. (Docket No. 11.) For the following reasons, the Court grants the Motion.

Plaintiffs are trustees of several multi-employer fringe-benefit funds. When entering into Collective Bargaining Agreements with trade unions, employers such as Defendant here agrees to make contributions to these funds on behalf of their employees. When an employer fails to make the required contributions, the funds conduct audits of the employer's records. Often, however, the employer fails or refuses to provide records to allow the funds to conduct such audits. The trustees must often resort to litigation to enforce compliance with the CBA's requirements.

In this case, Defendant Axiom Construction Group LLC, entered into a CBA that required contributions to the fringe-benefit fund Plaintiffs represent and also requires Axiom to submit report forms each month outlining the hours worked by all employees covered by the CBA. Axiom has failed to submit either the contributions it owes or the

required report forms for the period from June 2023 through December 2023. Plaintiffs brought this lawsuit contending that Axiom's failure to pay and to submit report forms was a breach of the parties' agreement. Plaintiffs now ask the Court to issue an injunction requiring Axiom to submit its report forms so that Plaintiffs can determine the amount Axiom owes and seek a money judgment. Axiom did not respond to the Complaint, and in November 2023, the Clerk of Court entered default against Defendants. (Docket No. 9.)

This Court held a hearing on Plaintiffs' Motion for a Default Order and Injunction on February 1, 2024. Axiom did not appear at this hearing. As such, Axiom is in default and Plaintiffs are entitled to the relief they request in the Complaint. In particular, Plaintiffs have established that Axiom has breached its obligations under the CBAs by failing to submit all required fringe-benefit fund remittance reports disclosing hours worked by covered employees for the period June 2023 through December 2023.

Accordingly, **IT IS HEREBY ORDERED that:**

1. Plaintiffs' Motion for Default Order and Injunction (Docket No. 11) is **GRANTED**;
2. Within 10 days of the date of this Order, Defendant Axiom Construction Group LLC is **ORDERED** to submit the fringe fund remittance reports due for the months of June 2023 through December 2023 to Wilson-McShane Corporation, 500 Metro Drive, Suite 300, Bloomington, MN 55425, accurately disclosing all covered hours worked by Axiom's employees in accordance with the CBA;
3. Axiom is liable to the Fund for all fringe benefit contributions found to be

due and unpaid for June 2023 through December 2023, together with liquidated damages of 10%, interest due on any unpaid contributions at the rate of 8%, and attorney's fees and costs incurred in collecting the delinquency pursuant to 29 U.S.C. § 1132(a) and (g) and the CBA;

4. Within 30 days after receiving all required remittance reports from Axiom, Plaintiffs shall move for a money judgment for all unpaid contributions owed for hours Axiom's covered employees worked from June 2023 through December 2023, including liquidated damages, interest, and reasonable attorney's fees and costs. The Court may enter judgment fourteen (14) days after service of the motion and declaration on Axiom without further hearing.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: February 6, 2024

s/Paul A. Magnuson
Paul A. Magnuson
United States District Court Judge